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Attorneys for Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GEORGE BEITZEL, *et al.*, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

XAVIER BECERRA, Secretary of Health
and Human Services,

Defendant.

No. 2:23-cv-01932-WBS-DB

**STIPULATION, UNOPPOSED MOTION,
AND ORDER FOR ENTRY OF
JUDGMENT**

Pending the Court's approval, IT IS HEREBY STIPULATED, by and between the parties,

1 through their respective counsel of record, that it is appropriate for the Court to enter judgment in
2 this action in favor of the Defendant, Secretary of Health and Human Services.

3 On April 22, 2024, the Court entered its Order and Memorandum Granting the
4 Defendant's Motion to Dismiss the First Amended Complaint, with leave for Plaintiffs to file an
5 amended complaint consistent with the Order within 20 days (Docket No. 35 at 11). The 20-day
6 period has since elapsed and Plaintiffs have not filed and do not elect to file an amended
7 complaint. Based on these circumstances, Plaintiffs respectfully submit that judgment in favor of
8 the Defendant, Secretary of Health and Human Services, is appropriate. *See WMX Techs., Inc. v.*
9 *Miller*, 104 F.3d 1133, 1136 (9th Cir. 1997) (en banc) (requiring further district court
10 determination before plaintiff who had been given leave to amend complaint could appeal); *see*
11 *also Unified Data Servs., LLC v. FTC*, 39 F.4th 1200, 1206-07 (9th Cir. 2022) (*WMX*
12 *Technologies* reaffirmed that plaintiff given leave to amend should alert district court of intent to
13 rest on complaint; appealable final order may then be entered); Fed. R. Civ. P. 58(b)(1)(C) (entry
14 of judgment when all relief has been denied).

15 Undersigned counsel for Plaintiffs contacted Defendant's counsel who does not oppose
16 this request for entry of judgment.

17 DATED: May 22, 2024

Respectfully submitted,

18 By: /s/Alice Bers

Alice Bers (*pro hac vice*)

19 Justin Lalor (*pro hac vice*)

20 CENTER FOR MEDICARE ADVOCACY

Melissa C. Brown (SBN 110292)

21 COMMUNITY LEGAL SERVICES

22 McGEORGE SCHOOL OF LAW

23 Attorneys for Plaintiffs

24 PHILLIP A. TALBERT

25 United States Attorney

26 By: /s/ Joseph B. Frueh (authorized 5/22/2024)

27 JOSEPH B. FRUEH

Assistant United States Attorney

28 Attorneys for Defendant

XAVIER BECERRA


Secretary of Health and Human Services

ORDER

This Court considered Defendant's Motion to Dismiss Plaintiffs' First Amended Complaint and filed its ruling on April 22, 2024, granting Defendant's motion (Docket No. 35). The Order granted Plaintiffs 20 days' leave to amend. The time for Plaintiffs to file an amended complaint has since expired and Plaintiffs filed the present application stating they do not elect to file an amended complaint. For these reasons and pursuant to the parties' foregoing stipulation and unopposed motion, IT IS HEREBY ORDERED that the decision granting Defendant's motion to dismiss is final and appealable and judgment shall be entered in favor of Defendant.

IT IS SO ORDERED.

Dated: May 23, 2024


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE